



Report
Staff Report
The Corporation of the City of Brampton
10/30/2024

Date: 2024-10-22

Subject: **Construction Site Safety and Locates (RM 64/2024)**

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RECOMMENDATIONS:

1. That the report from Allyson Sander, Strategic Leader, Project Management to the City Council Meeting of October 30, 2024, re: **Construction Site Safety and Locates (RM 64/2024)**, be received.

OVERVIEW:

- There has been a notable increase in calls for service about unsafe residential construction sites and excavation practices.
- On October 2, 2024, Council directed staff to report back on a potential process in relation to locates (CW360-2024).
- Staff undertook a review of the current legislation and coordinated discussions with provincial agencies and authorities.
- This report highlights the improvements made to existing procedures, ensuring a well-defined, customer-focused approach to effectively triage safety concerns received by Service Brampton.
- The approach enables City staff to properly engage the appropriate external agencies and regulators, ensuring safety issues are addressed promptly with the require legal authority.
- This approach will be monitored to ensure compliance and revised if necessary to ensure a streamlined customer experience.

BACKGROUND:

As outlined in a recent staff [report](#), increases in repeat building permit inspections can often be attributed to work being performed by unqualified and unlicensed contractors who are not familiar with the required standards for construction. With the rise in the construction of additional residential units, complaints made to the City about unsafe residential construction sites and excavation practices have also increased. On October 2, 2024, staff were directed to report back on the establishment of a process regarding locates in relation to building permits, and potential tools available for greater process ownership by the City (CW360-2024).

These issues highlight the need for a comprehensive, multi-jurisdictional approach to ensure public safety and compliance with provincial regulations. The overlap in jurisdiction, particularly concerning locates and safe construction sites, requires close collaboration between different orders of government and regulatory agencies to effectively address safety concerns. This report examines the respective provincial and municipal legislation and proposes an enhanced comprehensive approach that leverages existing systems. This approach was developed in consultation with external agencies to ensure that timely, authorized and effective action is taken against those who choose not to comply with legal requirements.

Furthermore, the report presents Council with insights into ongoing initiatives that are reviewing opportunities to improve procedures and internal restructuring, which may lead to more comprehensive recommendations in forthcoming staff reports with the goal of ensuring customer service standards of excellence are met and maintained.

CURRENT SITUATION:

To effectively address the issue of unsafe digging and excavation practices, it is essential that the City leverage the combined authority of multiple orders of government. External agencies having legislation, regulations or procedures concerning digging and excavation safety include (but are not limited to) the Technical Standards and Safety Authority, Enbridge Gas, Ontario One Call, Electrical Safety Authority and the Ministry of Labour. The respective powers and responsibilities of each are briefly described below, including how the Ministry of Environment and Climate Change - Spills Action Center is used to manage incident reporting. The following section of this report ("*Ensuring Public Safety Through a Customer-Centric Referral System*") outlines a new standardized procedure for engaging the proper authorities to ensure the City can safeguard the health and wellbeing of the public while ensure the customer experience is simple and streamlined.

Ontario One Call – Underground Infrastructure Locate Requirements and Reporting

Electricity, water, cable, Wi-Fi, and oil and gas transportation and distribution are among the important services underground utilities provide to residents. To protect public safety and the systems that deliver these key services, the *Ontario Underground Infrastructure Notification System Act, 2012* creates Ontario One Call, a corporation and "one-window"

portal for requesting the location of buried utilities prior to ground disturbance, free of cost (i.e. excavation, landscaping, outdoor home renovations, fencing, decks etc.).

A person wishing to dig must submit a locate request through Ontario One Call at least five business days before digging. One Call notifies buried infrastructure owners, who will attend the property to locate buried lines and cables by marks on the ground. The locate package is generally valid for only 60 days.

Compliance

Ontario One Call's Compliance and Industry Performance Team (CAIP) enforces the Act and any related regulations, including [violations](#) such as late locates, late emergency locate response, inaccurate locates, false renegotiated date, deficient clearance, locate abuse, excavation in an unsafe manner and digging without a locate. Ontario One Call works collaboratively with provincial authorities, ministries, utility owners and administrative authorities when investigating complaints.

The CAIP team can take action against alleged offending parties and uses multiple tools including but not limited to written warnings, compliance education, prosecution and administrative penalties. One Call does not have the authority to stop work from being done without the required locates, but has established a **\$10,000 set penalty** under the Act for failing to obtain a locate prior to excavating ([O. Reg. 87/23](#)), and will engage the utility owners and/or regulators as necessary which have the ability to order work to stop, disconnect service and apply other fines/penalties.

Other Authorities, Statutes, Regulations and Requirements

While Ontario One call administers and enforces the *Ontario Underground Infrastructure Notification System Act*, the utility or infrastructure owner and the government regulator, such as the Technical Standards and Safety Authority, Electrical Safety Authority or Enbridge can take additional action as required.

Technical Standards and Safety Authority: Ontario Regulation 210/01 (Oil and Gas Pipeline Systems) under the *Technical Standards and Safety Act, 2000* regulates the safety of oil and gas pipelines in the province of Ontario. The regulation sets the requirements for the maintenance, safety and integrity of the pipelines, including requiring locates prior to digging. The Technical Standards and Safety Authority (TSSA) is Ontario's pipeline-safety regulator, who attends and investigates underground work that has the potential to damage oil and gas infrastructure.

In addition to One Call, TSSA administers an independent escalation process under the *Technical Standards and Safety Act* through the issuance of orders (including cease and desist orders), coupled with inspection and working without locate fees ranging **from \$628 to \$1,066** ([Natural Gas and Hydrogen Fee Schedule](#)). Where there is non-compliance with a cease-and-desist order or an immediate danger, Enbridge can be engaged to discontinue gas service to the subject property. Both TSSA Fuels Safety Program and Enbridge act immediately on incidents reported through their 24/7 emergency hotlines that involve an actual or potential pipeline damage and can discontinue service to a location that fails to comply or creates a public risk.

Electrical Safety Authority: In addition to these regulated authorities, Ontario Regulation 22/04 (Electrical Distribution Safety) under the *Electricity Act, 1998*, requires the person responsible for digging or excavating to obtain a locate prior to commencing work. The Electrical Safety Authority is independent of any other Regulator's requirements, enforcement policies, and dispute resolution processes. When addressing any complaints against an excavator, or resolving any disputes, ESA will consider the requirements of Ontario Regulation 22/04 and any other applicable regulations, national standards or industry practices.

Ministry of Labour – Constructor Health and Safety: Ontario Regulation 213/91 (Construction Projects) under *Occupational Health and Safety Act, R.S.O. 1990* establishes obligations for construction projects to prevent excavation-related hazards. This includes, but is not limited to, requiring the employer responsible for excavation to ensure that all gas, electrical and other services in and near the area to be excavated are located and marked, as well as prescribing methods of protecting open excavations. These matters of non-compliance will be investigated and may be escalated under the Act, as necessary.

City of Brampton Building Division: The *Building Code Act, 1997* authorizes a municipality to pass by-laws that are applicable to the matters for which the municipality has jurisdiction for the enforcement of the Act. This includes listing requirements prescribed under the Building Code Act and the Building Code, including establishing fees and fencing requirements. The Act also authorizes the issuance of building permits for construction, demolition or change of use by the Chief Building Official, who must issue the permit unless certain criteria are met, including non-compliance with applicable law.

At present, legislation requiring locates is not applicable law for this purpose. Therefore, a by-law passed under the Act cannot prescribe requirements or set fines for failing to obtain locates. Additionally, given the validity period and timeframe to submit a request to One Call, should the City request confirmation of the locate results through the building permit administration process, it may unintentionally influence non-compliance with the Act and increase the risk to public safety.

Recommendation

While the need for underground locates is critical for ensuring public safety and preventing damage to essential infrastructure, staff recommend that the City not pursue local mandates for enforcing underground locate requirements. This decision is based on several key considerations including the potential for jurisdictional conflicts with provincial regulations and existing compliance programs with more significant fines and penalties.

By deferring to the province's established regulatory structure, the City can ensure that its own resources are directed toward strengthening collaboration with existing authorities. The City's role can be better leveraged through information sharing and partnerships, ensuring that provincial regulators remain the primary enforcers of locate requirements while the City ensures proper referrals, reporting mechanisms and public education materials are in place.

Service Brampton - Ensuring Public Safety with a Customer-Centric Referral System

Complaints made about digging or excavating without the required locates is urgent and taken seriously by the City. Service Brampton uses well-informed knowledge articles to educate residents on the requirements for construction, site maintenance and locate requests. However, the procedures to manage transfers about underground work concerns or dangers were not clearly defined. Where digging or excavation concerns were received about a construction project, they were transferred to a Monday-Friday operating area with no established service level expectation for this type of call.

External Consultations

In reviewing how to improve service coordination, the customer experience and response times, staff met with the government regulators to determine how calls are triaged, and how their powers are applied. Through these consultations, it was determined that Spills Action Centre has agreements in place to receive and distribute notifications 24/7 under various Acts, including to the TSSA Incident Hotline and Ministry of Labour after hours reporting. Incidents involving dangerous digging, excavation or damage may be submitted through the Spills Action Centre, which has an established priority triage system and meets the regulatory requirement of reporting incidents to authorities such as the TSSA. Where there is an actual or potential risk of fuel leaks and spills, the Spills Action Centre operator may inform Enbridge and the TSSA Fuels Safety Program on-call personnel for immediate attendance and determine what other authorities are required to be notified.

Service Brampton Improvements

Where Service Brampton receives a call for digging or excavation without the required locates, they will connect the resident with the appropriate party depending on the type and severity of the concern being reported, also considering the methods of reporting incidents after-hours. To streamline referrals for residents, Ontario One Call will be engaged where there has or will be digging or excavation without locates marked on site and the Spills Action Centre to report urgent after-hours and fuel-related incidents. This will ensure that the operator can obtain all the required information, allowing for appropriate triage of the incident, and ensuring the resident has the information required to follow-up and remain safe until it is investigated. Service Brampton will also engage first responders via 9-1-1 where the integrity of underground fuel infrastructure is potentially compromised.

Where the resident wishes to complete the referral on their own and it is not an urgent scenario, contact information will be provided to the resident. After a referral is made, all calls will be transferred to the appropriate operating area to ensure that any related contraventions (i.e. refuse, building permit, fencing, contractor license, etc.) are addressed. Service Brampton is also continuing work to improve general external transfer procedures, which will ensure that any referral needed outside of the government regulators listed above, such as the Electrical Safety Authority, are notified in a timely manner with the appropriate information.

Training

Enforcement and By-law Services recently onboarded a Supervisor of Training who will aid in equipping staff with the information required to proactively identify concerns in the field and understand the distribution of authority to escalate contraventions to the appropriate agency. A series of staff workshops have been scheduled for 2024 with the Technical Standards and Safety Authority and Ministry of Labour to aid in the identification of incidents and provide an overview of their mandate, authority and processes.

Building Division - Enhancements to Ensure Site Safety and Compliance

Education Materials

While the [online](#) building permit process education materials contain information about who to call before digging, Building Division staff are making refinements to the webpage, online building portal and permit documentation including the start of construction guidelines to ensure all other applicable law requirements are clearly listed with contact information for each authority (locates, contractor licensing, fencing etc.). This will support the strengthened focus on educational efforts and public awareness in relation to the licensing requirements for contactors operating in the City.

Start of Construction Inspections

Additionally, if applicants and contractors do not call for start of construction inspections within the first week, Building Division staff will begin proactively scheduling these inspections. At this stage, construction should not have commenced, and the building inspector can review the scope of work with the applicant and provide all the necessary information including construction standards, site safety standards and the requirement to submit locate requests where there will be excavation.

Fencing Requirements

Staff will continue to utilize the fencing requirements established in the Building By-law when appropriate to prevent public access to potential hazards on construction and demolition sites and engage Property Standards to ensure the standards established under By-law 165-2022 are met. For example, fencing may be ordered for an addition being constructed to minimize the risk of accidental falls and dangers to pedestrians.

Next Steps

Given the intersections between Service Brampton, enforcement officers, building inspectors and external agencies, staff understand that fostering efficient cross-departmental collaboration is paramount to respond swiftly and comprehensively to these multi-faceted issues. Staff continue to review opportunities to enhance standard processes, staff organization and service request distribution to optimize service delivery and information coordination with all relevant authorities. This review may culminate in more comprehensive recommendations being made in future staff reports, including changes to the current operating model and establishing a one-window approach for all issues related to the construction and occupancy of additional residential units.

CORPORATE IMPLICATIONS:

Financial Implications: There is no financial impact resulting from the adoption of the recommendations in this report.

STRATEGIC FOCUS AREA: This report supports the City's strategic focus areas and priorities. Improving coordination will improve process alignment, customer service excellence, service effectiveness, and community health and well-being.

CONCLUSION:

Construction site safety requires collaboration between various orders of government and regulatory parties. While staff are not recommending the adoption of local mandates for underground locates, staff have standardized an approach to improve coordination with external agencies that leverages the appropriate authorities to better safeguard community safety, hold bad actors accountable and improve the customer experience. Coupled with the implementation of Resolution [CW341-2024](#), staff hope to see a reduction in unlicensed contractors, unauthorized work and unsafe excavation incidents.

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